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Eric Justin Gould

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.

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EXAMINER

WINDER, PATRICE L

ART UNIT

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2445

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------------|--|
| Office Action Summary | Application No. 10/635,880 | Applicant(s) GOULD, ERIC JUSTIN | |
| | Examiner Patrice Winder | Art Unit 2445 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-18-2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-47, 50-52, 54-59, 73-80, 86-91, 94 and 102-120 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-47, 50-52, 54-59, 73-80, 86-91, 94 and 102-120 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11-15-2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: applicant was departed from the nomenclature used in the application as filed. It is not clear support or antecedent basis for "tangible" medium or "tangible computer readable storage medium". Appropriate correction can be made by an amendment to the description which provides support for the idea "tangible".

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 23-47, 50-52, 54-59, 73-80, 86-91, 108-112, and 115-119 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's disclosure as amended on February 6, 2006 implements the search system 10 including the inventive meta-folder as computer program code embodied on "computer readable medium". The concept or context of "tangible" is not apparent from applicant's disclosure. As such, the correlating concept of "tangible

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computer readable medium" can not be construed from applicant's disclosure. Without applicant's disclosure alluding to a particular "computer readable medium" as being "tangible" the scope of the meaning of "tangible computer readable medium" indeterminate.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 23-47, 50-52, 54-59, 73-80, 86-91, 108-112, and 115-119 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Without applicant's disclosure alluding to a particular "computer readable medium" as being "tangible" the scope of the meaning of "tangible computer readable medium" indeterminate. Applicant's disclosure should reasonably disclose what applicant considers to be the meaning of "tangible". By not disclosing what applicant considers is "tangible" all reasonable possibilities would be within the scope of applicant's claim language.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23-47, 50-52, 54-59, 73-80, 86-91, 108-112, and 115-119 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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Specifically from applicant's disclosure "[t]he meta-folder may be stored on the server, and computer program may further comprise a code segment that connects the client device to the server via said network, and a code segment that accesses the meta-folder on the server via the network." According to this language of applicant's disclosure, the medium of the code segments in this particular embodiment is the network itself. Clearly, applicant intends that the computer code of the present invention is transmissible across the network.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 23, 59, 74, 90, 94, 102, 110-114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich, USPN 5,504,852 (hereafter referred to as Thompson-Rohrlich) in view of Wang et al., USPN 5,222,234 (hereafter referred to as Wang).

9. Regarding claim 23, Thompson-Rohrlich taught a computer readable medium storing instructions that when executed by a computer system connected to a network are capable of causing the computer system to:

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define a meta-folder as a type of graphical element, wherein an instantiation of the meta-folder graphical element type is associable with 1) one or more search objects having corresponding search criteria and 2) one or more conventional objects (column 3, lines 9-16);

display, via a first graphical interface of the computer system, a first graphical representation of a first meta-folder instantiated on the computer system (Figure 3); upon selection of the first meta-folder via the first graphical interface;

for any search objects associated with the first meta-folder (column 5, lines 58-59), initiate searching the computer system and the network for conventional objects that satisfy the corresponding search criteria (column 4, lines 44-53); and

display, via the first graphical interface, graphical elements representing 1) any conventional objects located as a result of the searching (column 3, lines 23-30) and 2) any conventional objects otherwise associated with the first meta-folder (other folders in Figure 3). Thompson-Rohrlich does not explicitly teach the particulars of the association between conventional objects and the first meta-folder. However, Wang taught folder representing 1) any conventional objects located as a result of the searching (search result document SRD, column 7, lines 58-65) and 2) any conventional objects otherwise associated with the first meta-folder (SRD nested in conventional folder, column 15, lines 29-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Wang's folder associated with search result documents in Thompson-Rohrlich's meta-folder would have improved integration by nesting the search result documents.

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10. Regarding dependent claims 110-114, Thompson-Rohrlich taught any conventional objects that have been associated with the first meta-folder have been associated by being moved into the first meta-folder in response to input received via the first graphical interface (using user interface to add search criteria, column 3, lines 5-13, 23-25); and

wherein the graphical elements representing 1) any conventional objects located as a result of the searching and 2) any conventional objects associated with the first meta-folder are movable out of the first meta-folder in response to input received via the first graphical interface (files removed from viewer because of search criteria, column 6, lines 25-32).

11. Claims 24-39, 46-47, 50-52, 60-67, 73, 86-89, 91, 103-104, 107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Vora as applied to claim 23 above, and further in view of Vora et al., USPN 5,819,273 (hereafter referred to as Vora).

12. Regarding claims 24-31, Vora taught the network includes a local area network (column 5, lines 26-29), a wide area network (column 5, lines 26-29) and/or the Internet (column 5, lines 47-53) and the network includes a collection of storage systems for storing at least some of the conventional objects located as a result of searching (column 6, lines 37-40, 56-66).

13. Regarding claim 32, Vora taught the network includes a user server connected to the computer system (column 14, lines 39-43).

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14. Regarding claims 33 and 34, Vora taught the user server stores the first meta-folder and at least some of the conventional objects located as a result of the searching (column 14, lines 39-43).

15. Regarding claims 35-39, Vora taught the user server is connected to the computer system via a LAN, WAN or Internet and the user server is connected to a content server via the Internet (column 5, lines 26-29, 47-53), wherein the content server is a web-page server (column 5, lines 47-53), an FTP server or a news server (column 17, lines 48-58).

16. Regarding claim 46, Vora taught conventional objects include conventional folders, conventional files, electronic mail, notes, contact or address book items or files containing text, audio or video information (column 6, lines 40-46).

17. Regarding claim 47, Vora taught the search criteria includes wildcard characters (Figure 4A; column 9, lines 38-51).

14. Regarding claims 50 and 51, Vora taught the first meta-folder includes descriptive text, wherein the descriptive text describes the search object (Figure 4A, column 9, lines 44-51).

18. Regarding claim 52, Thompson-Rohrlich taught causing the computer system to display the first meta-folder, the icons representing the conventional objects that satisfy the corresponding search criteria and any conventional objects associated with the first meta-folder a single screen of the user interface (Figure 3, column 3, lines 23-30).

16. Regarding dependent claim 109, Thompson-Rohrlich taught the first meta-folder

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includes at least one search object (column 4, lines 13-22), and wherein the first meta-folder does not statically point to any conventional objects (column 6, lines 58-62).

19. The limitations of remaining claims 59-67, 73-74, 86-91, 94, 102-104, and 107 are similar to the limitations of previously rejected claims 23-39, 46-47, and 50-52, above.

20. Thompson-Rohrlich-Wang does not specifically teach the architectural features of the underlying network. However, Vora taught underlying features of the network as cited above. It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Vora's network architecture would have expanded industrial applicability.

21. Claims 44-45, 105-106 and 115-120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Wang as applied to claims 23 and 102 above, and further in view of Khan, USPN 6,546,393 B1 (hereafter referred to as Khan).

22. Regarding claims 44-45, 105-106, 115-120, Thompson-Rohrlich-Wang does not specifically teach using a computer system to initiate transfer of a first meta-folder through electronic mail. However, Khan further discloses the computer system to initiate a transfer of the first meta-folder via the network, wherein the transfer occurs through electronic mail (column 21, line 55 - column 22, line 32). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Khan's transferring metafolders by electronic mail in Thompson-Rohrlich-Wang's system for searching and organizing would have prompted system utility. The motivation would have been to allow file transfers of search results without employing a specific file transfer utility.

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23. Claims 40-43, 54-58 and 68-71 rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Wang as applied to claims 32 and 60 above, and further in view of Fritsch, USPN 6,233,682 B1 (hereafter referred to as Fritsch).

24. Regarding claims 40-43, Thompson-Rohrlich-Wang does not specifically teach the user server is connected to a vendor server, wherein the first meta-folder is stored on the vendor server or the user server, wherein the vendor server includes a search engine of media products and wherein the media products include books, video tapes, DVDS, CDS and audio cassettes. However, Fritsch, in the same object searching field of endeavor, does disclose a server is connected to a vendor server via the internet, wherein a folder is stored on the vendor server, wherein the vendor server includes a search engine of media products and wherein the media products include books, video tapes, DVDS, CDs and audio cassettes (column 3, line 40 - column 4, line 46). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Fritsch's vender server with multimedia products into Thompson-Rohrlich's system for searching and organizing would have expanded system utility. The motivation would have been to provide access to heterogeneous file types.

25. Regarding claims 54-55, Fritsch taught the first metafolder contains objects that pertain to music, wherein the computer system initiates playing the music (column 1, lines 10-64; column 4, lines 47-67).

26. Regarding claims 56-58, Fritsch taught the computer system to generate graphical representations that indicate whether the music is owned or un-owned, wherein the computer system to initiate a purchase of the music and the computer

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system to provide a link from which the user can purchase the music (column 5, line 25 - column 6, line 32).

27. The limitations of the remaining claims 68-71 are similar to previously rejected claims 40-43, 54-58, above.

28. Claims 75-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Wang as applied to claim 74 above, and further in view of Treyz et al., USPN 6,587,835 B1 (hereafter referred to as Treyz).

29. Regarding claims 75, 77 and 79, Thompson-Rohrlich does not specifically teach the enhanced device is a personal digital assistant, web-access enabled portable telephone or an audio player (column 9, lines 57-66; column 17, lines 5-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Treyz's plurality of enhanced devices in Thompson-Rohrlich's system for searching and organizing would have improved utility. The motivation would have been to use handheld devices to better assist users in performing wireless transactions.

30. Regarding claims 75-76, Treyz taught the enhanced device is a personal digital assistant and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the representations of the conventional objects that result from the searching, and other objects in an intermingling manner on the a user interface of the enhanced device (column 3, lines 23-30).

31. Regarding claims 77-78, Treyz taught the enhanced device is a web-access enabled portable telephone and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the graphical

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representations of the conventional objects that result from the searching, and other objects in an intermingling manner on the a user interface of enhanced device (column 3, lines 23-30).

32. Regarding claims 79-80, Treyz taught the enhanced device is an audio player and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the graphical representations of the conventional objects that result from the searching, and other objects in an intermingling manner on the a user interface of enhanced device (column 3, lines 23-30).

Response to Arguments

33. Applicant's arguments with respect to claims 23, 29, 74, 90, 94 and 102 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice Winder/
Primary Examiner, Art Unit 2445

February 17, 2009